

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL BAIL APPLICATION NO. 574 OF 2019

Raju Shantaram Bansode

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. M.S. Mohite i/b. Mr. S.R. Phanse, Advocate for the Applicant.

Mr. S.S. Hulke, A.P.P. for the Respondent-State.

CORAM : REVATI MOHITE DERE, J.
DATE : 19th SEPTEMBER, 2019.

P. C. :

1 In view of the 'not before me' order passed by Hon'ble Shri. Justice S.V. Kotwal, the aforesaid application has been placed before this Court.

2 Heard learned counsel for the parties.

3 By this application, the applicant seeks his enlargement on bail in connection with C.R. No. 591 of 2017 registered with the Dehuroad Police Station, Pune for the alleged offences punishable under Sections 307, 324, 143, 147, 148 and 149 of the Indian Penal Code, Sections 3 (25) (27), 4 (25) (27) of the Indian Arms Act and Sections 3 (1) (II) and 3 (4) of

the Maharashtra Control of Organized Crime Act ('MCOC Act').

4 Learned counsel for the applicant submits that except the statement of the complainant, there is no material to connect the applicant with the alleged offences. He submits that the applicant has been falsely implicated in the said case, as is evident from the material on record. He further states that the eye - witnesses i.e. Ganesh Shinde, Sonu Sharma and Adhitya Kotagi have not seen the applicant at the spot and as such have not named the applicant in their statements. He further submits that even the confessional statement of co-accused - Nikhil Bhagwat does not even remotely show the complicity of the applicant in the alleged offence. He states that the applicant has no antecedents and that he has been falsely roped in the said case.

5 Learned A.P.P. opposes the application. Learned A.P.P. has filed an affidavit of Asst. Commissioner of Police Mr. Ganpatrao Madgulkar for opposing the application.

6 Perused the papers. According to the complainant - Hanumant Shinde he was released on bail on 17.09.2017. It alleged by the

complainant that he learnt that Vinod Gaikwad, Aniket Jadhav and Vicky Vasekar had started a gang in his name (Hanumant Shinde) and hence he objected to the same. According to the complainant after he was released from jail, he had decided not to engage himself in any criminal activities. He has further alleged that when he learnt that the aforesaid persons were running a gang in his name, he did not consent to the same and accordingly, a meeting was held on 01.11.2017. According to the complainant, he alongwith some of his supporters had gone to Aniket Jadhav's house. The complainant has alleged that when he went to Aniket Jadhav's house, he saw Anirudha Jadhav, Chima Gaikwad, Nikhil Bhagwat, Akshay Sable, Banti Salunkhe, Avi Salunkhe, Nazim Shaikh, Karan Rokade, Dinesh Revna and some other persons present at the spot. The complainant has stated that Aniket Jadhav started threatening him and when he started running away, Aniket fired at him twice from his pistol. The complainant has alleged that the accused who had gathered at the spot started running behind him. He has alleged that the said persons were armed with swords, sickles and sticks. He has further alleged that the applicant was also present at the spot along with others and that the applicant was armed with a wooden log. Admittedly, the complainant had not sustained any injuries.

It appears that, the complainant's supporters were also present at the spot and that Ganesh Shinde, Sonu Sharma and Adhitya Kotagi also started running from the spot alongwith the complainant. None of the said witnesses have named the applicant as having been present at the spot, nor any identification parade has been held to identify the applicant. Except Ganesh Shinde, no other person has been injured in the said incident. Even Ganesh Shinde is alleged to have received two simple injuries i.e. two abrasions. The confessional statement of Nikhil Bhagwat recorded under Section 18 of the MCOC Act, does not in anyway show the complicity of the applicant or that the applicant was present at the spot. The applicant has no antecedents. Having regard to the aforesaid there are reasonable grounds for believing that the applicant is not guilty of the offence with which he is charged. The applicant is in custody since 07.12.2017. Investigation is complete and charge-sheet is filed.

7 Considering the aforesaid, the application is allowed and the applicant is enlarged on bail on the following terms and conditions :

ORDER

- (i) The applicant be enlarged on bail, on executing P.R. Bond in

the sum of Rs. 25,000/- with one or two sureties in the like amount;

(ii) The applicant shall attend the concerned Police Station on the first Saturday of every month from 10:00 a.m. to 12:00 noon till the conclusion of the trial;

(iii) The applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

(iv) The applicant shall inform his latest place of residence and mobile contact number and/or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the concerned Police Station;

(v) The applicant to co-operate with the conduct of the trial and attend all the dates before the trial Court, unless exempted;

(vi) The applicant shall file an undertaking with regard to clauses (ii) to (v) in the trial Court, within two weeks of his release;

(vii) If there are two consecutive defaults either in attending the

Police Station or in appearing before the trial Court, or breach of any of the aforesaid conditions, the prosecution shall be at liberty to seek cancellation of the applicant's bail.

8 The application is accordingly disposed of.

9 It is made clear that the observations made herein are *prima facie*, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

10 All concerned to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)